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6 || Attorneys for Plaintiff

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

2 MAXINE FINKELSTEIN, Individually, as )  
3 Wrongful Death Heir, and as Successor-in- )  
4 Interest to MILTON FINKELSTEIN, )  
5 Deceased, )  
6 Plaintiffs, )  
7 vs. )  
8 GENERAL ELECTRIC COMPANY, )  
and DOES 1-300, )  
Defendants. )  
No. C07-1274-SBA  
JOINT MOTION AND STIPULATION TO  
STAY PROCEEDING OR, IN THE  
ALTERNATIVE, TO CONTINUE CASE  
MANAGEMENT DEADLINE AND  
CONFERENCE, AND TO EXTEND TIME;  
~~[PROPOSED] ORDER TO STAY;~~  
[PROPOSED ALTERNATIVE] ORDER  
TO CONTINUE

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20 Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and  
21 respectfully move the Court for, an Order extending time as set forth in the *Case Management*  
22 *Scheduling Order* filed March 5, 2007 (Document 2) and Clerk's Notice (Document 3) filed  
23 March 9, 2007, for the following good cause:

24 On May 1, 2007, Defendant GENERAL ELECTRIC COMPANY, filed Document 9, a  
25 Notice to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the  
26 Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter  
27 to that District. Said Defendant subsequently mailed notice to the Judicial Panel on  
28 Multidistrict Litigation (“JPML”) pursuant to 28 U.S.C. § 1407.

1       On July 29, 1991, the JPML entered an order transferring all asbestos personal injury  
 2 cases pending in the federal courts to the United States District Court for the Eastern District of  
 3 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. That order also  
 4 applies to “tag-along actions,” or actions involving common questions of fact filed after January  
 5 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of  
 6 MDL 875, for coordinated pretrial proceedings.

7       The JPML has held that a district court has the authority to stay pending a transfer order.  
 8 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)  
 9 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need  
 10 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any  
 11 unnecessary interruption or delay.”)

12       The parties agree that it is likely that the JPML will transfer this matter to the Eastern  
 13 District of Pennsylvania.

14       However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*  
 15 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be  
 16 transferred, pursuant to JPML Rule 13(b).

17       It is likely the dates set forth in the *Case Management Scheduling Order* and the *Clerk's*  
 18 *Notice*, including the deadlines imposed by Federal Rules of Civil Procedure 26, will come to  
 19 pass before the Clerk of the JPML acts.

20       The parties make this Motion on the grounds that a stay of this action would (a) promote  
 21 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the  
 22 parties.

23       Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to  
 24 and respectfully request the Court VACATE its *Case Management Scheduling Order*, the  
 25 *Clerk's Notice* and that the Court issue an Order STAYING this action pending the outcome of  
 26 the MDL Panel's decision on the merits of the transfer.

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28       ///

1        In the alternative, the parties hereby STIPULATE to and respectfully request that the  
2        dates set forth in the *Case Management Scheduling Order* (Document 2) and Clerk's Notice  
3        (Document 3) be vacated and continued pending the outcome of the JPML's decision on the  
4        merits of the transfer. Specifically, these deadlines in this matter include the **May 23, 2007** Rule  
5        26 deadline to meet and confer, and file Joint ADR Certification, the **June 6, 2007** Deadline to  
6        complete Initial Disclosures, the **June 6, 2007** deadline to file the Joint Case Management  
7        Statement and the Case Management Conference, currently set for **June 13, 2007** at 2:30 pm by  
8        telephonic conference.

9 || Dated: May 1, 2007

BRAYTON PURCELL LLP

10 || /s/ David R. Donadio

By: \_\_\_\_\_  
David R. Donadio  
Attorneys for Plaintiffs

Dated: May 1, 2007

SEDGWICK, DETERT, MORAN &  
ARNOLD, LLP

**[PROPOSED] ORDER TO STAY**

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed March 5, 2007 (Document 2), and the *Clerk's Notice* filed March 9, 2007 are hereby VACATED and that this action is STAYED pending the outcome of the JPML's decision on the merits of the transfer.

24 Dated: 5/7/07

Saundra B. Armstrong  
Saundra B. Armstrong  
United States District Court Judge

1 [PROPOSED ALTERNATIVE] **ORDER TO CONTINUE**

2 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*  
3 *Management Scheduling Order* filed March 5, 2007 (Document 2), and the *Clerk's Notice* filed  
4 March 9, 2007 are hereby VACATED.

5 IT IS FURTHER ORDERED that the following case management deadlines are  
6 continued as follows:

7 1. Last day to meet and confer re initial disclosures, early settlement, ADR process  
8 selection, and discovery plan is [set for a date **on or after August 10, 2007** to wit:]  
9 \_\_\_\_\_, 2007;

10 2. Last day to file Joint ADR Certification with Stipulation to ADR process or  
11 Notice of Need for ADR Phone Conference is [set for a date after August 10, 2007 to wit:]  
12 \_\_\_\_\_, 2007;

13 3. Last day to complete initial disclosures or state objection to Rule 26(f) Report,  
14 file/serve Case Management Statement and file/serve Rule 26(f) Report is [set for a date after  
15 August 10, 2007 to wit:] \_\_\_\_\_, 2007; and,

16 4. The Case Management Conference is [set for a date after August 10, 2007 to wit:]  
17 ] \_\_\_\_\_, 2007 at \_\_\_\_\_ m. via telephone, with Plaintiff's counsel to set  
18 up the conference call with all the parties on the line and call chambers at (510) 637-3559.

19 Dated: \_\_\_\_\_

21 \_\_\_\_\_  
22 Saundra B. Armstrong  
23 United States District Court Judge  
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